

EXHIBIT I

All Nippon Airways
vs.
United Air Lines

Deposition of

Eishin Yamaguchi

Volume 1

November 27, 2007

Reported By: Brandon Combs, CSR 12978
Job Number: 1-6056

Eishin Yamaguchi

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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ALL NIPPON AIRWAYS COMPANY,
LTD.,

Plaintiff,

vs.

UNITED AIR LINES, INC.,

Defendant.

No. C07-03422 EDL

VIDEOTAPED DEPOSITION OF
EISHIN YAMAGUCHI

November 27, 2007

REPORTER: BRANDON D. COMBS, RPR, CSR 12978

Job 6056

Eishin Yamaguchi

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<p>1 UNITED STATES DISTRICT COURT</p> <p>2 NORTHERN DISTRICT OF CALIFORNIA</p> <p>3 --oOo--</p> <p>4 ALL NIPPON AIRWAYS COMPANY,)</p> <p>5 LTD.,)</p> <p>6 Plaintiff,)</p> <p>7 vs.) No. C07-03422 EDL</p> <p>8 UNITED AIR LINES, INC.,)</p> <p>9 Defendant.)</p> <p>10</p> <p>11 --oOo--</p> <p>12 BE IT REMEMBERED THAT, pursuant to Notice and</p> <p>13 on Tuesday, November 27, 2007, commencing at</p> <p>14 9:58 a.m. thereof at 595 Market Street, Suite 620,</p> <p>15 San Francisco, California, before me, BRANDON D. COMBS,</p> <p>16 a Certified Shorthand Reporter, personally appeared</p> <p>17 EISHIN YAMAGUCHI,</p> <p>18 called as a witness by the Defendant being first duly</p> <p>19 sworn, testified as follows:</p> <p>20 --oOo--</p> <p>21 JAFFE, RAITT, HEUER & WEISS, 27777 Franklin</p> <p>22 Road, Suite 2500, Southfield, MI 48034-8214, represented</p> <p>23 by SCOTT R. TORPEY, Attorney at Law, appeared as counsel</p> <p>24 on behalf of the Defendant.</p> <p>25 CONDON & FORSYTH, LLP, Times Square Tower,</p> <p style="text-align: right;">Page 3</p>	<p>1 MR. TORPEY: Scott Torpey on behalf of United.</p> <p>2 MR. WORTHE: Jeff Worthe for United Airlines.</p> <p>3 MR. FUS: Steve Fus for United Airlines.</p> <p>4 MR. TURNER: Marshall Turner from</p> <p>5 Condon & Forsyth for All Nippon Airways.</p> <p>6 MS. ESKRIDGE: Timothy Eskridge, Condon &</p> <p>7 Forsyth for All Nippon Airways.</p> <p>8 MR. MORIYA: Shinsuke Moriya.</p> <p>9 MR. MIZUNO: Yoshihiro Mizuno.</p> <p>10 MR. TURNER: Also present here is</p> <p>11 Mr. Matsutani, who is an interpreter.</p> <p>12 MR. TORPEY: And Satoe Ohari who is also an</p> <p>13 interpreter.</p> <p>14 THE VIDEOGRAPHER: The court reporter today is</p> <p>15 Brandon Combs of Combs Reporting. And would the</p> <p>16 reporter please administer the oath.</p> <p>17 (After being duly sworn, the interpreters,</p> <p>18 Satoe Ohari & Sadaaki Matsutani, translated</p> <p>19 questions put to the witness into the Japanese</p> <p>20 language and the answers thereto given by the</p> <p>21 witness were translated into the English</p> <p>22 language.)</p> <p>23 --oOo--</p> <p>24 MR. TORPEY: I'd like --</p> <p>25 MR. TURNER: Just a couple of housekeeping</p> <p style="text-align: right;">Page 5</p>

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Eishin Yamaguchi

1 matters. To begin with, since this is the first
2 deposition being taken in this case, I want to make it
3 clear that this deposition is being taken pursuant to
4 the Federal Rules of Civil Procedure; is that correct?

5 MR. TORPEY: That's correct.

6 MR. TURNER: All objections except as to form
7 being reserved to the time of trial.

8 MR. TORPEY: The rules provide that all
9 objections other than form and foundation are preserved
10 and there is no need to raise them. It also provides
11 that there are no speaking objections.

12 MR. TURNER: In view of the fact that we have
13 received five deposition notices with differing requests
14 for documents, I just want to quickly go over them and
15 make it clear what has been and is being produced.

16 MR. TORPEY: Well, let me do this, Marshall.
17 I don't want this to, you know, detract or take away
18 from the amount of time we have here today with the
19 witness. We can discuss that at another time. If you
20 have additional documents you're producing here today,
21 produce them. Otherwise we can discuss this at another
22 time.

23 MR. TURNER: This will just take a few
24 minutes. In view of the fact that we received five
25 notices, I think it has to be clear, a couple of them

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1 Those documents are here. If we can have an
2 agreement on them, you can examine the witness on them.
3 Without an order, you cannot have copies, but I may let
4 you see them so you can examine the witness.

5 The third item in that second deposition
6 notice contains documents regarding ground handling
7 agreement. This witness has no knowledge of documents
8 recording ground handling agreements.

9 The second amended notice, which was the third
10 notice we received in late September, that is exactly
11 the same as the second one. Nothing further to be
12 produced there.

13 Two, a third amended notice and a fourth
14 amended notice were both received last week. They
15 request some additional documents including ANA
16 operation manual in existence on the day of the
17 accident, October 7, 2003.

18 This witness has not had any opportunity to
19 attempt to locate such a document nor does he know if
20 there is a document that is in existence. You, of
21 course, can examine him on this.

22 He did however obtain from ANA's legal
23 department a section that he believes is the only
24 conceivably relevant section which is current. Some of
25 it was applicable in October of '03. Some of it may not

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1 having been received just last week.

2 The first one, which is the original notice,
3 has an Exhibit A requesting only the All Nippon Airways
4 investigation file. That was fully produced as part of
5 our initial disclosure.

6 The second one -- notice is an amended notice
7 to take video deposition. That was received in mid
8 September. And there are a couple of additional
9 requests in addition to the accident investigation file
10 in Exhibit A.

11 Number 2 requests All Nippon Airways pilot
12 files which requests all accidents/incidents that the
13 pilots, in this case Mr. Yamaguchi, may have been
14 involved in or received disciplinary action. There are
15 no such accidents/incidents or disciplinary action. It
16 also requests certificates and training from 1995 to
17 date.

18 We do have his certificates, and we do have
19 his record of training, but these are documents that
20 contain personal information that we would only produce
21 if we have a confidentiality order. And to my knowledge
22 I have not received such an order from United's counsel,
23 although the court did direct that United's counsel
24 provide us with an order pursuant to her order. And we
25 had a hearing on November 13.

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1 have been, but you're welcome to look at that version.

2 Also, you asked for all the publications on
3 board the aircraft, required to be onboard the aircraft
4 on October 7, 2003. This witness does not have control
5 over those documents, and he has not had the opportunity
6 to look for them since he didn't see this notice
7 actually until yesterday.

8 And you also asked for routing in item 7 of
9 the third and fourth amended notices, his routing on the
10 day of October 7, 2003. This witness has not had the
11 opportunity to look for them. He doesn't know if it
12 still exists for the day of October 7, 2003, but he does
13 know from whom he would have obtained such routing. And
14 it was neither ANA nor United Airlines. He knows the
15 company he received it from.

16 That's all I have on these notices because I
17 have a few documents that he also obtained that are
18 included in the ANA accident investigation file, but he
19 doesn't have and never had access to and never saw the
20 complete ANA investigation file that has been produced
21 in this case.

22 MR. TORPEY: Well, let me quickly respond.
23 First of all, as I said in both conversation and by
24 letter, I was and continue to be willing to make any
25 documents that you believe are confidential and should

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1 be subject to the protective order retroactively covered
 2 under that order, and to date you refused.
 3 Secondly, this notice, which is the notice
 4 dated November 19, 2007, was sent on that day by fax and
 5 email to your office. You filed no objections as
 6 required if you have an objection.
 7 And you can laugh, Marshall. I think that's
 8 disrespectful. Do whatever you like. Say whatever you
 9 like. But here we are at the deposition. You're
 10 prepared to produce some but not all of the documents.
 11 And to add to that, this was a notice by a
 12 party to this case to another party. This is not a
 13 notice to Mr. Yamaguchi personally.
 14 Now you chose not to produce documents, and,
 15 as you know, we have a motion that's going to be filed
 16 with the court, and we're asking the court to take
 17 appropriate action with regard to what you've done.
 18 I don't think there's anything more that I
 19 need to say. If you want to hand me documents you're
 20 producing in response to my notice, I'll look at them to
 21 the extent I can. But it won't be possible for me to
 22 spend much time on them nor will I have the ability to
 23 consult with my experts which I would certainly have
 24 done had you produced this as required.
 25 There was a document request sent to you, as

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1 you know, that you responded to a week and a half or two
 2 weeks ago that was sent back in October. There are
 3 items in there that you haven't produced either, so
 4 we'll address that at another time.
 5 MR. TURNER: I think in response to your
 6 comments I want the record to reflect that all of our
 7 responses have been timely and complete. And I
 8 certainly want to point out for the record the court's
 9 order of November 19 requiring United to provide a
 10 stipulated protective order as referenced at her hearing
 11 on June 13, and on -- I'm sorry -- November 13, 2007,
 12 and also at that hearing Mr. Torpey informed me that he
 13 would be providing me with the corrected protective
 14 order.
 15 And the court has ordered that United Airlines
 16 revise the stipulated protective order and that the
 17 parties shall then submit the jointly proposed order to
 18 the court. I still have not seen that order.
 19 MR. TORPEY: Let's begin the deposition. I'd
 20 like to start.
 21 EXAMINATION BY MR. TORPEY
 22 MR. TORPEY: Q. Mr. Yamaguchi, please, you do
 23 have some understanding of English. You can understand
 24 me as we speak now; correct?
 25 A. No. I do not have an accurate understanding.

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1 Q. You're the pilot in command of a Boeing 777
 2 commercial airliner, correct, sir?

3 A. Yes.

4 MR. TURNER: I hate to interrupt. Is it okay
 5 with the translators and you if Mr. Matsutani kindly
 6 chimes in once in a while?

7 MR. TORPEY: Well, here's what I think. I
 8 think, with all due respect to Mr. Yamaguchi, I don't
 9 think it's necessary that every question and every
 10 answer be translated. This is a commercial airline
 11 pilot. He speaks every day fluently, I'm sure, with air
 12 traffic control. The regulations require that. That's
 13 part of his job.

14 And for us to sit here for hours with
 15 translation that's unnecessary, I think is unnecessary.
 16 I think if and when there comes a point in time that the
 17 witness feels that there is a language problem, then
 18 certainly one or both interpreters can weigh in. But
 19 otherwise I think, Marshall, all we're doing is wasting
 20 a bunch of time. It's not really up to you. I would
 21 ask Mr. Yamaguchi.

22 Q. And let me ask you --

23 MR. TURNER: Hold it. Before you ask a
 24 question, you've made a comment on the record. I'm
 25 entitled to respond.

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1 MR. TORPEY: Go ahead, please.

2 MR. TURNER: Mr. Yamaguchi does not give
 3 depositions every day, and it is not his native tongue.
 4 He is entitled to a translator, and he will use one. My
 5 question had nothing to do with it. My question was a
 6 matter of procedure here.

7 We have brought Mr. Matsutani as a translator
 8 here, and he did just -- I don't know if it was a
 9 constructive comment or not for the other translator.

10 And I just wanted to know if that's offensive
 11 to you or to the other translator in which case he won't
 12 interfere. But it seemed to be very simply and perhaps
 13 constructive. But I just want to make sure there wasn't
 14 any objection to it.

15 MR. WORTHE: We also have to take into
 16 consideration the reporter with two people speaking over
 17 each other. My suggestion is one interpreter.

18 MR. TORPEY: Well, here is the way I think it
 19 should be done. First of all, it's now almost 10:15.
 20 And I haven't gotten one question or answer from
 21 Mr. Yamaguchi.

22 We have got a dozen people in the room, and we
 23 have to get this deposition done. We started at 10:00
 24 at your request, and we haven't gotten one question
 25 done. I've asked Satoe Ohari to be the interpreter.

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<p>1 It's my deposition of this witness. Ms. Ohari is going 2 to interpret this. 3 If your interpreter believes that something is 4 interpreted incorrectly, then I welcome him to speak up 5 and correct it. You know, we've both done this before 6 many times, so this is not something new. 7 But I also -- and I'll stand on this, 8 Marshall -- we can have him -- we can have Satoe and 9 your interpreter interpret every single question if 10 that's what you are going to direct happen here today. 11 But I can tell you that we will not finish this 12 deposition here today under any circumstances, let alone 13 in the seven hours allowed by the federal rules. 14 So I'm asking -- so that we don't have to come 15 here for an additional period of time in the future, I'm 16 asking that the witness, when possible, be able to be 17 asked and answer questions in English. 18 To the extent he feels uncomfortable, I would 19 welcome Mr. Yamaguchi to turn to Mr. Ohari or your 20 interpreter and ask for assistance. I think that's very 21 reasonable, and that's what I'd ask you to do Marshall. 22 MR. TURNER: The main reason that we haven't 23 gotten any questions out in almost 15 minutes is mostly 24 your talking on the subject. It was a very simple 25 comment. I thought it was constructive, and I think</p> <p style="text-align: right;">Page 14</p>	<p>1 Mr. Yamaguchi, what positions have you held when you 2 started at ANA up to today? 3 A. At first I was copilot for Boeing 767. Then I 4 was copilot for 747-400, and now I am captain of 777. 5 Q. And how long have you been a captain for the 6 777? 7 A. Seven years. 8 Q. Okay. So roughly since 2000 sometime? 9 A. Yes. 10 Q. If you remember, when approximately in 2000? 11 A. It was from February of 2000. 12 Q. And did you -- or have you flown the last 13 seven years anything else other than a 777 for ANA? 14 A. No. 15 Q. We had talked a little bit at the outset about 16 your proficiency with English. Do you read English? 17 A. I can read in English about aeronautical 18 matters, but I do not believe that I can read other 19 things in English with accuracy. 20 Q. Do you think reading an English newspaper is 21 something you could do? 22 A. No. I do not think so. 23 Q. Can you write in English? 24 A. To a certain degree. 25 Q. And with regard to your responsibilities as a</p> <p style="text-align: right;">Page 16</p>
<p>1 you're agreeing to it. Let's get on with the 2 deposition. The witness is entitled to, and we'll use, 3 the interpreter. 4 MR. TORPEY: So you're directing that the 5 interpreter has to translate every question and answer? 6 MR. TURNER: That's the way the deposition is 7 going to go, yes. 8 MR. TORPEY: All right. Then we'll deal with 9 that at another time. 10 Q. Mr. Yamaguchi, I apologize, sir, for the 11 delay. I won't take any more of your time than is 12 necessary today. Would you start by giving us your full 13 name, please. 14 A. My name is Eishin Yamaguchi. 15 Q. And, Mr. Yamaguchi, where are you employed, 16 sir? 17 A. By ANA, All Nippon Airways. 18 Q. And how long have you been with ANA? 19 A. 17 years. 20 Q. And how old are you, sir? 21 A. I am 44. 22 Q. Was ANA your first aviation-related 23 employment? 24 A. Yes, that's right. 25 Q. And just give me a little background,</p> <p style="text-align: right;">Page 15</p>	<p>1 captain and/or a pilot in command of a 777 for ANA, are 2 you required to be able to speak and understand in the 3 English language? 4 A. I would like the question in Japanese once 5 more. No. 6 Q. Okay. When you fly and communicate with air 7 traffic control, what language do you speak to them in? 8 A. Ordinarily in English. 9 Q. So let's say you're flying into Narita, you're 10 talking to air traffic control, you'd speak to them in 11 English; correct? 12 A. I do speak in English, but if it was a 13 complicated matter, I would communicate in Japanese. 14 Q. If you're flying to the United States and 15 you're talking to air traffic control, you would talk to 16 them in English; right? 17 A. That's right. 18 Q. You would not speak to air traffic control in 19 the U.S. in any other language; correct? 20 A. No. 21 Q. No, you would not speak in any other tongue 22 than English? 23 A. That's right. 24 Q. With regard to publications by Boeing, for 25 example, relating to your aircraft, are those published</p> <p style="text-align: right;">Page 17</p>

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<p>1 in English?</p> <p>2 A. Translations were distributed to us.</p> <p>3 Q. When did you arrive in the United States prior</p> <p>4 to today, sir?</p> <p>5 A. I arrived yesterday.</p> <p>6 Q. About what time?</p> <p>7 A. I arrived at 9:00 a.m.</p> <p>8 Q. 9:00 a.m. And did you arrive having been a</p> <p>9 working crew member on an ANA flight?</p> <p>10 A. No. I came as a passenger.</p> <p>11 Q. And when are you scheduled to go back?</p> <p>12 A. Tomorrow.</p> <p>13 Q. And at what time, sir?</p> <p>14 A. The flight is scheduled to leave at 11:00 a.m.</p> <p>15 Q. And goes to where?</p> <p>16 A. Narita.</p> <p>17 Q. And will you be working that flight or just be</p> <p>18 a passenger again?</p> <p>19 A. As a passenger.</p> <p>20 Q. Do you have a period of time before you return</p> <p>21 on a working flight?</p> <p>22 THE INTERPRETER: I'd like the question read</p> <p>23 again.</p> <p>24 MR. TORPEY: I'll just rephrase it.</p> <p>25 Q. Mr. Yamaguchi, when are you next scheduled to</p> <p style="text-align: right;">Page 18</p>	<p>1 recollection of the events at SFO on October 7, '03?</p> <p>2 A. I don't have personal knowledge, but I have a</p> <p>3 recollection to a certain degree.</p> <p>4 Q. Okay. Your ANA's lawyer may have told you</p> <p>5 this, but if not, I'll do so.</p> <p>6 If you don't recall something Mr. Yamaguchi,</p> <p>7 then just tell us you don't know or you don't recall.</p> <p>8 We don't want you to guess here today. So that if you</p> <p>9 do answer, we're going to assume that you correctly</p> <p>10 understood the question and that you've given us an</p> <p>11 answer based on your -- what we'll call personal</p> <p>12 knowledge, that you're not guessing.</p> <p>13 Will you do that for us?</p> <p>14 A. Yes.</p> <p>15 Q. And again, I say this respectfully, being</p> <p>16 sworn to tell the truth, of course, you will do so in</p> <p>17 response to my questions; correct, sir?</p> <p>18 A. Yes.</p> <p>19 Q. What professional licenses do you hold or</p> <p>20 certificates, sir?</p> <p>21 A. I have an ATR certification to work as a</p> <p>22 captain and the certification for the aircraft model</p> <p>23 based on that. I also have a license for aeronautical</p> <p>24 radio communication. Furthermore, I have a physical</p> <p>25 examination certificate. So in total I have three.</p> <p style="text-align: right;">Page 20</p>
<p>1 fly as a crew member for ANA?</p> <p>2 A. The third of next month.</p> <p>3 Q. Third of December?</p> <p>4 A. Yes.</p> <p>5 Q. Other than the attorney for ANA, did you have</p> <p>6 a chance to speak to anyone else about your giving a</p> <p>7 deposition here today?</p> <p>8 A. Are you asking aside from Mr. Turner?</p> <p>9 Q. Yes, sir.</p> <p>10 A. No. Not anyone else besides Mr. Turner.</p> <p>11 Q. After the day of the incident involved in this</p> <p>12 case, which is October 7 of 2003, have you ever had an</p> <p>13 opportunity to talk to anyone other than Mr. Turner or a</p> <p>14 member of his law firm about what took place that day?</p> <p>15 A. No.</p> <p>16 Q. Okay. You haven't talked to Mr. Usui, that's</p> <p>17 U-s-u-i, or Mr. Nishiguchi about this matter since the</p> <p>18 accident?</p> <p>19 A. I talked with them on the day of the accident.</p> <p>20 Q. But not since then about the accident?</p> <p>21 A. No.</p> <p>22 Q. I assume this is the first time you've ever</p> <p>23 given a deposition or been involved in litigation?</p> <p>24 A. It's my first time.</p> <p>25 Q. Do you still have a personal knowledge or</p> <p style="text-align: right;">Page 19</p>	<p>1 Q. The radio certificate, what does that permit</p> <p>2 you to do?</p> <p>3 A. I am allowed to operate the radio</p> <p>4 communication equipment on an aircraft.</p> <p>5 Q. Which allows you to talk to air traffic</p> <p>6 control and other authorities, if you will?</p> <p>7 A. Yes.</p> <p>8 Q. Are your licenses or certificates issued by a</p> <p>9 Japanese government authority or the U.S. counterpart or</p> <p>10 some other authority?</p> <p>11 A. It has -- they were issued by the Japanese</p> <p>12 authorities.</p> <p>13 Q. Is your understanding of the English language</p> <p>14 about the same today as it was back on October 7, '03?</p> <p>15 A. Yes.</p> <p>16 Q. On the day of this accident, Mr. Yamaguchi,</p> <p>17 the flying pilot or copilot, Mr. Nishiguchi, and the</p> <p>18 observer pilot, Mr. Usui, had you ever before flown with</p> <p>19 them?</p> <p>20 A. Yes.</p> <p>21 Q. And can you tell me about how many times you</p> <p>22 would have flown with Mr. Nishiguchi, the flying pilot</p> <p>23 or copilot?</p> <p>24 A. I do not recall the number of times, but it</p> <p>25 was a two-day flight, so I have flown several times with</p> <p style="text-align: right;">Page 21</p>

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Eishin Yamaguchi

<p>1 him.</p> <p>2 Q. So as of the time this accident occurred on</p> <p>3 October 7, '03, would you say you'd flown with</p> <p>4 Mr. Nishiguchi maybe more than a dozen times?</p> <p>5 A. No. I have not flown with him as many as 12</p> <p>6 times.</p> <p>7 Q. What's your best recollection of times you</p> <p>8 flew with Mr. Nishiguchi before October 7, '03, with</p> <p>9 Mr. Nishiguchi being a flying crew member?</p> <p>10 A. How shall I count this. For example, one</p> <p>11 flight from Tokyo to Osaka would count as once?</p> <p>12 Q. Yeah. Fair enough. That would be fine.</p> <p>13 A. If that is the case, it would be maximum six</p> <p>14 times.</p> <p>15 Q. Would those all have been in a 777?</p> <p>16 A. Yes.</p> <p>17 Q. And on those six occasions, were you the pilot</p> <p>18 not flying and Mr. Nishiguchi was the pilot flying?</p> <p>19 A. No. Sometimes I was the pilot, and sometimes</p> <p>20 Mr. Nishiguchi was.</p> <p>21 CHECK INTERPRETER: Sometimes I was the pilot</p> <p>22 flying; sometimes Mr. Nishiguchi was the pilot flying.</p> <p>23 MR. TORPEY: Q. The six times, how many</p> <p>24 separate trips did that comprise?</p> <p>25 A. Three flights a day, and there were two such</p> <p style="text-align: right;">Page 22</p>	<p>1 the accident, can you give me, Mr. Yamaguchi, an idea of</p> <p>2 how many times you would have flown with Mr. Usui?</p> <p>3 A. I was talking about that one round-trip before</p> <p>4 the day of the accident.</p> <p>5 Q. Okay. Understood. Then let me ask you, since</p> <p>6 the date of the accident, have you flown with Mr. Usui?</p> <p>7 A. I have not flown with him.</p> <p>8 Q. Is Mr. Usui a check airman?</p> <p>9 A. He is so today.</p> <p>10 Q. Was he back on October 7 of '03?</p> <p>11 A. I recall that he was in training to be a</p> <p>12 checker.</p> <p>13 Q. Prior to the day of this accident,</p> <p>14 Mr. Yamaguchi, had you ever flown a 777 aircraft with</p> <p>15 Mr. Nishiguchi to or out of San Francisco airport?</p> <p>16 A. No.</p> <p>17 Q. Do you know if Mr. Nishiguchi at any time</p> <p>18 prior to October 7, '03, ever flew a 777 aircraft in or</p> <p>19 out of San Francisco airport?</p> <p>20 A. Although I do not know the number of times, I</p> <p>21 believe that he was flying in and out of San Francisco</p> <p>22 frequently.</p> <p>23 Q. As a crew member of a 777 aircraft; is that</p> <p>24 correct?</p> <p>25 A. Yes.</p> <p style="text-align: right;">Page 24</p>
<p>1 days. But it could have been less than that.</p> <p>2 Q. Are there other pilots that you fly with more</p> <p>3 frequently than -- that you did fly with prior to this</p> <p>4 accident more frequently than Mr. Nishiguchi?</p> <p>5 A. I do not recall.</p> <p>6 Q. Have you flown with him since the date of the</p> <p>7 accident?</p> <p>8 A. Yes.</p> <p>9 Q. And do you remember on how many different</p> <p>10 trips?</p> <p>11 A. I do not have a clear or accurate</p> <p>12 recollection.</p> <p>13 Q. Okay. Would you say it was more than six</p> <p>14 trips?</p> <p>15 A. No. I think it is less than six.</p> <p>16 Q. How about with Mr. Usui?</p> <p>17 A. It was a one return trip, so shall we say that</p> <p>18 it was two times?</p> <p>19 CHECK INTERPRETER: One round-trip.</p> <p>20 THE INTERPRETER: I said return trip, so it's</p> <p>21 the same thing.</p> <p>22 MR. TORPEY: Q. So I'm clear then since the</p> <p>23 date of the accident, you had one round-trip --</p> <p>24 A. Yes.</p> <p>25 Q. -- with Mr. Usui. And prior to the date of</p> <p style="text-align: right;">Page 23</p>	<p>1 Q. Okay. And with regard to yourself, as a crew</p> <p>2 member of a 777 aircraft, prior to October 7 of '03, is</p> <p>3 that a trip you frequently made?</p> <p>4 A. Although I do not recall the exact number of</p> <p>5 times, I was doing that as a crew member almost every</p> <p>6 month.</p> <p>7 Q. Okay. When you say every month, how many</p> <p>8 times on average per month would you be a crew member</p> <p>9 for a 777 going into or out of San Francisco?</p> <p>10 A. Are you talking about the time before the</p> <p>11 accident?</p> <p>12 Q. Yes, sir. So that would be from when you</p> <p>13 started as a 777 captain in February of 2000 to</p> <p>14 October 7, '03, how many times per month would you be</p> <p>15 the pilot flying or pilot not flying, crew member of an</p> <p>16 ANA aircraft to or from San Francisco?</p> <p>17 A. I believe that it would be 12, 13, 14 times,</p> <p>18 approximately.</p> <p>19 Q. Per month?</p> <p>20 A. No. Before the accident.</p> <p>21 Q. But 12 or 13 times per month before the</p> <p>22 accident?</p> <p>23 A. I'm talking about the number of times in total</p> <p>24 before the accident. So although I don't know exactly</p> <p>25 how many times, it would be over ten times.</p> <p style="text-align: right;">Page 25</p>

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1 Q. Okay. Understood.
 2 In February of 2000, was ANA flying to
 3 San Francisco airport, flying 777s to San Francisco?
 4 A. Yes.
 5 Q. And I take it it's done so regularly up to
 6 today? They continue to fly that route to and from
 7 San Francisco?
 8 A. Yes.
 9 Q. Other than the accident of October 7 of '03,
 10 have you ever been involved in any accidents or
 11 incidents with regard to any aviation matter?
 12 A. No.
 13 Q. To your knowledge, has Mr. Nishiguchi or Usui
 14 been involved in any accidents or incidents other than
 15 the one of October 7, '03?
 16 A. Not as far as I know.
 17 Q. From February of 2000 to October 7 of '03, can
 18 you tell me how many hours you have as the pilot in
 19 command of a 777 aircraft?
 20 A. I don't have the record here, so I do not know.
 21 the accurate number of hours, but I believe it would be
 22 about 4,000 several hundred hours.
 23 Q. Okay. And of those hours that you accrued
 24 between February 2000 and October 7, 2003 in a 777, how
 25 many would have been as the flying pilot? Any idea?

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1 A. Are you talking about the total of my flight
 2 time?
 3 Q. Yes. If I understand you, Mr. Yamaguchi, you
 4 said that prior to the date of this accident you had
 5 4,000-plus hours as pilot in command of a 777. And what
 6 I'm asking, of those 4,000 approximate hours, how many
 7 of those were with you as the flying pilot,
 8 approximately?
 9 A. I don't have the document at hand, so I cannot
 10 say.
 11 Q. Would your best recollection be that perhaps
 12 half of those hours or something more or less than half
 13 as pilot flying?
 14 A. I'm trying to ascertain the meaning of the
 15 term flying pilot. If I'm onboard as the responsible
 16 person, I may be flying the aircraft, so I would be the
 17 pilot. But sometimes the copilot would be flying the
 18 aircraft, in which case I would not be the flying pilot.
 19 The only record that remains would be the PIC,
 20 in other words, of me as the person responsible. So
 21 there would be no record about the flying time.
 22 Q. Regardless of there being a record,
 23 Mr. Yamaguchi, do you have a recollection of about how
 24 many of those approximate 4,000 hours that you were
 25 pilot in command that you were also the flying pilot?

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1 MR. TURNER: I just want to add that I want to
 2 caution and remind the witness that he is not to guess.
 3 THE WITNESS: I cannot recall accurately,
 4 therefore, I cannot answer.
 5 MR. TORPEY: Q. Okay. So you have no idea
 6 how many hours from 1 to 4,000 you spent as the flying
 7 pilot of a 777 aircraft between February 2000 and
 8 October 7, 2003; true statement?
 9 MR. TURNER: Objection as to form and
 10 foundation.
 11 THE WITNESS: When I talked about the
 12 approximate 4,000 hours, I was talking about the hours
 13 that are relevant after I became captain. If it is only
 14 up to the date of 2003, October 7, there will not be as
 15 many as 4,000 hours.
 16 MR. TORPEY: Q. Let me do this so we're very
 17 clear, Mr. Yamaguchi.
 18 In February 2000 when you became a captain for
 19 an ANA 777 aircraft, going forward to October 7, 2003,
 20 the date of the accident involved here, please tell me
 21 two things. Number 1, what are your total hours as
 22 pilot in command of a 777 aircraft?
 23 MR. TURNER: One question at a time.
 24 MR. TORPEY: I haven't finished my question.
 25 Q. Number 2, of those hours, how many were as the

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1 flying pilot.
 2 MR. TURNER: I object as to form: Please ask
 3 the witness one question at a time, Mr. Torpey. I want
 4 the record clear that I'm objecting to Mr. Torpey and
 5 his discourtesy in asking these two questions knowing it
 6 is improper form. But I'm going to let the witness
 7 answer it.
 8 MR. TORPEY: And I would ask that you raise
 9 objections, not speaking objections. I don't want to
 10 get into a dialogue here, so let's stop that right now.
 11 MR. TURNER: You know you're very wrong in
 12 asking two questions, and it was very discourteous for
 13 you to insist upon doing it.
 14 MR. TORPEY: You can make an objection to
 15 form, but you can't do what you just did, and if it
 16 continues, we're going to have to ask the court to
 17 instruct you to follow the rules.
 18 MR. TURNER: You know you're 100 percent
 19 wrong. Please stop that right now.
 20 MR. TORPEY: Yeah. Let's stop and read back
 21 the question, and let's continue with the deposition.
 22 THE INTERPRETER: The interpreter will repeat
 23 the question.
 24 THE WITNESS: I do not have a record at hand,
 25 so that I cannot say what the hours are accurately. I

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Eishin Yamaguchi

<p>1 know the approximate total time, but I am unable to say 2 how much of that time was as a flying pilot. 3 MR. TORPEY: Q. And even if you had the 4 records, which I assume you're talking about your pilot 5 logbooks? 6 A. I do not keep the time personally. The 7 company does that. 8 Q. Okay. What you're telling me though is that 9 even the company records would not reflect how many of 10 the total hours you have accrued as pilot in command 11 between February 2000 and October 7, 2003, involved you 12 as the flying pilot; correct? 13 A. Yes. 14 Q. And finally, Mr. Yamaguchi, what is your best 15 recollection of the total number of hours you have as 16 the pilot in command of a 777 between February 2000 and 17 October 7, 2003? 18 A. I do not know the accurate number of hours, 19 but I would think that it would be around 2,000 hours. 20 Q. Have you at any time been subject to any kind 21 of disciplinary action by any government authority 22 and/or ANA relative to your performance as a pilot? 23 A. After the accident, my work was suspended for 24 a certain time period. 25 Q. How long was -- let me. You say your work was</p> <p style="text-align: right;">Page 30</p>	<p>1 did you resume the identical duties? Did anything 2 change? 3 A. No. It was the same. 4 Q. Who determined -- strike that. 5 On October 7, 2003, with regard to the flight 6 where the accident occurred, was it your decision to 7 designate your first officer to be the flying pilot that 8 day? 9 A. Yes. 10 Q. What was the reason that you chose not to be 11 the flying pilot that day? 12 A. There was no reason or limitation for the 13 copilot not to operate the aircraft. 14 Q. And when you came in from Japan on the flight 15 immediately before the departure flight where this 16 accident occurred, did you fly inbound with the same 17 crew members that you were flying back to Japan with? 18 A. Yes. I was in the deadhead, in other words, 19 the passenger compartment. 20 Q. And was Mr. Nishiguchi part of the flight crew 21 for that inbound flight? 22 A. Yes. 23 Q. How about Mr. Usui? 24 A. He too. 25 Q. And do you know what role they played, in</p> <p style="text-align: right;">Page 32</p>
<p>1 suspended. ANA suspended you from further piloting for 2 a period of time after this accident? 3 A. Yes. 4 Q. And the suspension was because of the accident 5 at San Francisco? 6 A. Yes. 7 Q. And how long was your suspension? 8 A. About two weeks. 9 Q. Were you paid during those two weeks? 10 A. Yes. I was being paid. 11 Q. Were the other two pilots that were with you 12 on October 7, 2003, also suspended? Do you know? 13 A. I don't know. 14 Q. What was the reason you were told you were 15 being suspended? 16 A. I do not recall accurately. 17 Q. Was there ever any type of reprimand either 18 written or verbal ever given to you by ANA relevant to 19 the October 7, 2003, accident? 20 A. No, I was not. 21 Q. Are you aware of whether there was any 22 reprimand issued to the other two pilots that were with 23 you? 24 A. I do not know if they were reprimanded or not. 25 Q. When you went back to work after two weeks,</p> <p style="text-align: right;">Page 31</p>	<p>1 other words, who was the pilot in command and who was 2 the flying pilot on that inbound flight? 3 A. Mr. Usui was the pilot in command, but I don't 4 know which of the two people was the flying pilot. 5 Q. And it was the same aircraft you flew in and 6 out of or were going to fly out of that day that? 7 A. I do not know. 8 Q. Let me show you what we marked as Exhibit 1 if 9 you could -- our court reporter has that. 10 (Whereupon, Exhibit 1 was marked for 11 identification.) 12 MR. TORPEY: Q. That's the deposition notice 13 that was dated November 19. Did you read that notice at 14 any time prior to today? 15 A. I was told that there was this document, but I 16 have not read it with accuracy. 17 Q. Prior to today, has anyone asked you whether 18 you objected to producing any documentation that ANA has 19 with regard to your employment or piloting, training, 20 things of that nature? Has anybody asked you whether 21 you would object to that? 22 A. No. 23 Q. Do you have a problem with us getting from ANA 24 your records with regard to your -- nonfinancial 25 records, but records regarding your training,</p> <p style="text-align: right;">Page 33</p>

9 (Pages 30 to 33)

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1 employment, certifications, hours flown, any problem
 2 with us getting your aviation-related records from ANA?
 3 A. That is not up to me. It is something for the
 4 company to decide.
 5 Q. If the company chose to give them to us,
 6 you're fine with their decision?
 7 A. Are personal information included?
 8 Q. No financial information is included.
 9 Strictly regarding your aviation experience, training,
 10 hours, work history, not your personal -- for example,
 11 personal medical, personal financial information. No,
 12 none of that.
 13 A. Yes.
 14 Q. Do you know what an operations manual is? Are
 15 you familiar with that term?
 16 A. Yes.
 17 Q. What is an operations manual?
 18 A. It is a manual that explains how to do our
 19 work.
 20 Q. Okay. It's an ANA document; correct?
 21 A. Yes.
 22 Q. It sort of is the outline, if you will, of how
 23 the company and its employees are expected to perform
 24 their duties including with regard to the operation of
 25 ANA aircraft; correct?

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1 A. Yes.
 2 Q. And it's required that that manual be kept
 3 with the aircraft?
 4 A. Yes.
 5 Q. Do you know how many 777s ANA currently has in
 6 its fleet?
 7 A. I do not have an accurate recollection. Maybe
 8 about 30.
 9 Q. Are they the same model or configuration? And
 10 I'm not talking about configuration, but in terms of the
 11 cockpit or equipment?
 12 A. Yes.
 13 Q. Was that about the size of the fleet back on
 14 October 7 of '03?
 15 A. If we are going to compare with that time
 16 period, I would say that there is twice as many today.
 17 Q. Okay. But as far as the equipment onboard,
 18 and again, in the cockpit they're basically the same
 19 today as back in '03?
 20 A. Yes.
 21 Q. How many radios are there onboard an ANA 777?
 22 And for clarity, when I say radios, I mean radios that
 23 you would use to talk to people outside of the aircraft,
 24 for example, air traffic control.
 25 A. There are two types of radios. One is VHF,

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1 the other is HF, and there are three VHF's and two HF's
 2 onboard.
 3 Q. I'm sorry. There were two -- what did you
 4 say?
 5 A. HF.
 6 Q. With regard to the 777 you were in on the day
 7 of this accident, was there anything different or unique
 8 about that? Or basically was it just like all the other
 9 777s you've been in for ANA?
 10 A. It was the same.
 11 Q. Now, with regard to the VHF radios, for what
 12 purpose would you use those?
 13 A. It is used for communication with ATC or the
 14 company radio. Also to send -- also for data
 15 communication.
 16 Q. Okay. How about the HF?
 17 A. HF is used to communicate with the controllers
 18 in areas that the VHF would not reach.
 19 CHECK INTERPRETER: For example, over the
 20 ocean.
 21 THE INTERPRETER: For example, over the ocean.
 22 MR. TORPEY: Q. With regard to the -- you say
 23 there are three separate VHF radios onboard the 777?
 24 A. Yes. Three.
 25 Q. And could they be turned to different

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1 frequencies simultaneously?
 2 A. Yes.
 3 Q. Would that typically be the protocol that was
 4 followed by ANA that there would be three radios on
 5 three different frequencies, or would they be tuned to
 6 the same frequency. What would routinely be the
 7 protocol? And we're just talking about the VHF radios.
 8 A. Ordinarily or typically, one VHF is used to
 9 communicate with ATC. The second one is used to
 10 communicate with the company or is set for guard
 11 frequency, and the third one is used for data
 12 communication.
 13 Q. All right. Let me make sure I understand.
 14 The first radio is used for air traffic control
 15 communication; is that correct?
 16 MR. TURNER: Can I have that question read
 17 back please in English.
 18 (Record read by the reporter.)
 19 MR. TURNER: You mean the first VHF?
 20 MR. TORPEY: Yeah. I'll restate the question.
 21 Q. I'm only talking now, Mr. Yamaguchi, about VHF
 22 radios. I'm not talking about HF. We'll do that
 23 separately.
 24 If I understand you, there are three VHF
 25 radios, and one of the three is dedicated for flight

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10 (Pages 34 to 37)

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<p>1 deck communications with air traffic control; is that 2 correct? 3 A. Yes. 4 Q. The second VHF radio you said is used for 5 communicating with the company or for the guard 6 frequency. When you say the company, are you talking 7 about communications between the flight deck and ANA? 8 A. Yes. 9 Q. What do you mean by the guard frequency? 10 A. If there should be any failure in the VHF that 11 communicates with ATC, then the instruction would be 12 given by that special frequency. 13 Q. So you leave this second radio, as we're 14 calling it, on a frequency that allows you to 15 communicate during operation of the flight with 16 individuals at ANA; is that correct? 17 A. It depends on where the aircraft is. If it is 18 close to land, then it would be at a frequency setting 19 that allows communication with the company. If the 20 aircraft is far away or over the ocean, then it would be 21 at guard frequency or a frequency that allows 22 communication between aircraft to aircraft. 23 Q. Okay. And if the aircraft was on the ground, 24 it would be tuned to the frequency that allows you to 25 communicate with ANA; correct?</p> <p style="text-align: right;">Page 38</p>	<p>1 of questions. 2 Q. So back on October 7 of '03, if you wanted to 3 communicate with air traffic control, you would have to 4 switch to a different frequency on the VHF radio than 5 you would if you wanted to talk to United ramp control; 6 correct? 7 A. Since the other party that we communicate is 8 different, naturally the frequency would have to be 9 changed. 10 Q. So you use the -- can we call the one VHF 11 radio as the dedicated radio to talk to ATC or United 12 ground on the respected frequencies? In other words, 13 you use the same radio to do both functions from; 14 correct? 15 MR. TURNER: Objection as to form and 16 foundation. 17 THE WITNESS: I'd like the question again. 18 MR. TORPEY: Q. I'll rephrase it, 19 Mr. Yamaguchi. 20 Back on October 7 of '03, as you've indicated, 21 there were three VHF radios in the aircraft as you were 22 taxiing from the gate towards your intended departure; 23 correct? 24 A. Yes. 25 Q. And was one of the three VHF radios tuned to a</p> <p style="text-align: right;">Page 40</p>
<p>1 A. Yes. 2 Q. And then the third VHF radio you said is for 3 data. Explain what you mean by that. 4 A. On land, it is set for data communication, but 5 ordinarily in the air, it is at guard frequency. 6 Q. What kinds of data would you get with that 7 third radio when it was on the ground receiving data? 8 A. The representative data would be weather 9 related to the flight, weight and balance, company 10 messages. 11 Q. So of the three radios, only one would be used 12 for purposes of communicating with, as you said, ATC. 13 Would that be the same radio that would be used for 14 purposes of contacting, for example, United ramp control 15 at San Francisco? 16 A. Yes. 17 Q. Now, when I used -- let me ask you, when you 18 use the term air traffic control, are you referring to, 19 for example, at San Francisco the FAA ground or FAA air 20 traffic controllers? 21 A. Yes. 22 MR. TURNER: Mr. Torpey, would this be a good 23 time to take a break. We've been going for about an 24 hour and a half without a break. 25 MR. TORPEY: I'm almost done with this couple</p> <p style="text-align: right;">Page 39</p>	<p>1 frequency so that it was dedicated to getting data as 2 you've described? 3 A. Yes. 4 Q. And up to the point where the collision 5 occurred on October 7, 2003, was that radio still tuned 6 and receiving data? 7 A. It is already four years since then, so I do 8 not have an accurate recollection about that. 9 Q. Do you have any -- would it be standard 10 protocol, Mr. Yamaguchi, that back on October 7, 2003, 11 you would have changed the frequency on that radio that 12 you were receiving data while you were still on the 13 ground? 14 THE INTERPRETER: I would like the question 15 again, please. 16 (Record read by the reporter.) 17 MR. TORPEY: Let me rephrase it. 18 CHECK INTERPRETER: When you say protocol -- 19 MR. TORPEY: Q. I'll withdraw the question. 20 I'll ask you a new question. 21 With regard to -- we'll call it radio 3 -- 22 that you indicated would have been tuned to receiving 23 data including weather briefings and other important 24 information, would it be fair to say, Mr. Yamaguchi, 25 that prior to the impact and leading right up to the</p> <p style="text-align: right;">Page 41</p>

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1 impact, to the best of your knowledge, that radio
 2 remained tuned to the frequency that allowed it to
 3 receive data?
 4 Is that a fair statement?
 5 A. Are you inquiring if we were using that radio
 6 to obtain data?
 7 Q. Mr. Yamaguchi, you indicated in earlier
 8 testimony there were three VHF radios onboard your
 9 aircraft on October 7, 2003. You further testified that
 10 one of those three radios was used for receiving data,
 11 which included weather briefing, weight and balance, and
 12 other important information.
 13 Is that a true characterization of your
 14 testimony, sir?
 15 A. Yes.
 16 Q. To the best of your knowledge, Mr. Yamaguchi,
 17 at any time up to the impact on October 7, 2003, did any
 18 member of your crew change the frequency on that radio
 19 so that it was doing something other than receiving
 20 data?
 21 A. I didn't notice that. I don't understand why
 22 you are asking me such a question.
 23 Q. Well, I appreciate you don't understand why
 24 I'm asking, Mr. Yamaguchi, but I want to make sure that
 25 I know your testimony in terms of what happened that

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1 earlier in the deposition about your suspension
 2 following this accident. Who was it who told you you
 3 were suspended?
 4 A. I do not recall who. On the computer I found
 5 that my schedule had changed, so I came to the
 6 conclusion that it was a suspension.
 7 Q. Well, when your schedule changed, were you --
 8 let me back up. Were you scheduled to fly the next day
 9 on October 8 of 2003?
 10 A. No. After returning to Japan, there's always
 11 a three-day rest.
 12 Q. But after the three-day rest, you were
 13 scheduled to resume your flying duties; correct?
 14 A. After the three-day rest, there could be a
 15 further vacation or another type of work that is
 16 scheduled.
 17 Q. Mr. Yamaguchi, the question specifically, sir,
 18 is on October 7, 2003, when were you next scheduled to
 19 fly for ANA right before this accident happened?
 20 A. I do not recall.
 21 Q. Well, you do recall that you were scheduled to
 22 fly and your schedule was changed and you considered
 23 that to be a suspension. You remember that; correct?
 24 A. Yes.
 25 Q. And who sent you that memo, the scheduling

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1 day.
 2 So can we leave it by saying to the best of
 3 your knowledge, as of the time of the impact on
 4 October 7, 2003, one of the three radios, the VHF
 5 radios, at the time of impact was tuned to a frequency
 6 that allowed ANA's aircraft to receive data?
 7 Is that a fair statement, sir?
 8 A. That is my recollection. I do not recall that
 9 I adjusted that radio.
 10 Q. And to your knowledge no one else did either;
 11 correct?
 12 A. I didn't notice it.
 13 Q. Okay. Let me ask you real quick, and then
 14 we'll break --
 15 A. I'd like to take a break.
 16 MR. TORPEY: Okay. Certainly, we'll take a
 17 break.
 18 THE VIDEOGRAPHER: This concludes Videotape 2
 19 in the deposition of Eishin Yamaguchi. Going off the
 20 record. The time on the monitor is 11:40 a.m.
 21 (Recess taken.)
 22 THE VIDEOGRAPHER: Here begins Videotape 1 of
 23 the deposition of Eishin Yamaguchi. Coming back on the
 24 record. The time on the monitor is 11:54.
 25 MR. TORPEY: Q. Mr. Yamaguchi, we talked

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1 change memo that you considered a suspension?
 2 MR. TURNER: Objection as to form and
 3 foundation.
 4 THE WITNESS: The schedule on the computer was
 5 different, but I do not know who instructed that.
 6 MR. TORPEY: Q. Did it say anything other
 7 than a -- showing a revised schedule? In other words,
 8 did it give information as to why it was being changed?
 9 A. That wasn't stated.
 10 Q. Did you ask anyone about that scheduling
 11 change?
 12 A. No. I did not because I thought it was
 13 natural for there to be a rest since it was right after
 14 an accident.
 15 Q. Did you have to get any training that you
 16 would not otherwise have had to get as a result of this
 17 accident?
 18 A. There was no special training, but together
 19 with Mr. Nishiguchi we made one round-trip domestically
 20 and also one round-trip between Narita and
 21 San Francisco.
 22 Q. And what was the purpose of that trip?
 23 A. I do not know.
 24 Q. Did you have to get instruction or take any
 25 kind of a test during that trip?

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<p>1 A. No.</p> <p>2 Q. Are you aware of any corrective action</p> <p>3 undertaken by ANA as a result of the October 7, 2003</p> <p>4 accident to preclude such an accident from happening in</p> <p>5 the future?</p> <p>6 A. Yes.</p> <p>7 Q. And what corrective action was taken?</p> <p>8 A. The accident facts were reported to crew</p> <p>9 members and also there is a chart that we use and a</p> <p>10 warning information was noted on the chart.</p> <p>11 Q. And where is this chart and warning kept?</p> <p>12 A. There is a route manual, and it is written on</p> <p>13 the route manual.</p> <p>14 Q. Is that the operations manual?</p> <p>15 A. No. It's a separate thing.</p> <p>16 Q. And it's called the route manual?</p> <p>17 A. Yes.</p> <p>18 Q. And is that kept in the aircraft?</p> <p>19 A. Each individual has one.</p> <p>20 Q. So every pilot has their own route manual?</p> <p>21 A. By own, your term own, do you mean</p> <p>22 individually?</p> <p>23 Q. Well, if you wanted to look at the route</p> <p>24 manual, where would you go to get it?</p> <p>25 A. And who is doing the looking, me or you?</p> <p style="text-align: right;">Page 46</p>	<p>1 October 7, 2003, on the aircraft that day; correct?</p> <p>2 A. Well, each individual had one.</p> <p>3 Q. Does that answer to my question, yes, there</p> <p>4 was one on the aircraft that day?</p> <p>5 A. Yes.</p> <p>6 Q. And are you familiar with the term pilot</p> <p>7 logbooks? Have you ever heard that term used before?</p> <p>8 A. Yes.</p> <p>9 Q. What does that mean to you?</p> <p>10 A. It is a personal flight log.</p> <p>11 Q. And what kind of information do you understand</p> <p>12 is logged in pilot logbooks?</p> <p>13 A. Information such as the flight times,</p> <p>14 departure, IMC, time, and nighttime, and the number of</p> <p>15 arrivals.</p> <p>16 Q. It would have the number of hours flown too;</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. And do you as a pilot for ANA have something</p> <p>20 that would be, whatever you call it, similar to a pilot</p> <p>21 logbook?</p> <p>22 A. I do not have one.</p> <p>23 Q. Would ANA have one?</p> <p>24 A. Yes, that's right.</p> <p>25 Q. And would that be a document that you would</p> <p style="text-align: right;">Page 48</p>
<p>1 Q. Mr. Yamaguchi, let me ask you again. If you</p> <p>2 wanted to go and look at the route manual -- I'll</p> <p>3 rephrase it.</p> <p>4 Would ANA have a copy of the route manual that</p> <p>5 you've referred to?</p> <p>6 A. The company has a copy, and also the same copy</p> <p>7 is distributed to each individual.</p> <p>8 Q. Okay. Now, what does the warning that you've</p> <p>9 described as the corrective action following this</p> <p>10 October 7, 2003 accident, what does that warning state?</p> <p>11 A. It is a warning that says that the aircraft</p> <p>12 should not taxi if there is an aircraft pushing back</p> <p>13 from gate 1 or 2.</p> <p>14 Q. Is that a -- this route manual, is that a</p> <p>15 route manual that had existed before October 7, '03?</p> <p>16 A. The route manual itself existed.</p> <p>17 Q. Okay. And it obviously was revised with these</p> <p>18 corrective actions that you've described; correct?</p> <p>19 A. Yes.</p> <p>20 Q. And is that a publication that's required to</p> <p>21 be kept on the aircraft itself, the route manual?</p> <p>22 A. It is a publication that is not required to be</p> <p>23 onboard, but each individual should bring one in.</p> <p>24 Q. So at the time of this accident, there was at</p> <p>25 least one copy of the route manual as it existed on</p> <p style="text-align: right;">Page 47</p>	<p>1 have had on the aircraft on October 7 of 2003?</p> <p>2 A. My understanding that the pilot logbook is a</p> <p>3 personal record. It is different from the journey log,</p> <p>4 which is the logbook for the aircraft.</p> <p>5 Q. Okay. The journey log, is that required to be</p> <p>6 on the aircraft on October 7 of '03?</p> <p>7 A. Yes.</p> <p>8 Q. Now, you indicated earlier that there was no</p> <p>9 reason for the first officer not to be the flying pilot.</p> <p>10 Is there any reason that you could not or should not</p> <p>11 have been the flying pilot on October 7, 2003?</p> <p>12 A. There was no reason.</p> <p>13 Q. Okay. Were you on any medication that</p> <p>14 precluded you from being the flying pilot that day?</p> <p>15 A. No. I was not on medication.</p> <p>16 Q. Did you take any type of alcohol or drugs of</p> <p>17 any kind within, say, 12 hours of departure on October 7</p> <p>18 of '03?</p> <p>19 A. No.</p> <p>20 MR. TORPEY: You know, Marshall, we'd like to</p> <p>21 look at the document. If you're producing documents,</p> <p>22 we'd like to have a chance to look at those?</p> <p>23 MR. TURNER: Do you have a protective order</p> <p>24 pursuant to the judge's order?</p> <p>25 MR. TORPEY: Well, the judge's order does not</p> <p style="text-align: right;">Page 49</p>

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1 give a deadline by which I have to do that, and I've
 2 already told you, and I'm telling you again, that we
 3 will make this retroactive. So if you are not going to
 4 hand them over at this point, I'm going to assume you're
 5 not going to produce them and we won't have a chance to
 6 even look at them in this deposition.
 7 So now is the chance. I want to take a look
 8 at them.
 9 MR. TURNER: First, I would like to find out
 10 when you intend, pursuant to the judge's order of
 11 November 19 and your own statement to me of November 13,
 12 that you are going to make the changes the judge ordered
 13 should be made and give us a copy of the confidentiality
 14 order. I don't understand what's taking so long.
 15 MR. TORPEY: You recall that there was a long
 16 holiday weekend, perhaps you forgot that, and here we
 17 are and I'm telling you again that I will make it
 18 retroactive. So rather than waste any more time talking
 19 about it, either produce the documents -- we agree on
 20 the record that it will be retroactive -- or don't
 21 produce them. But I'm not going to ask you, again
 22 Marshall. I'm going to assume whatever -- that whatever
 23 you do now is what you're going to do for the rest of
 24 these three depositions.
 25 MR. TURNER: I do have them here, and it's my

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1 intent to give them to you. However, we did have some
 2 disagreement as to what the content should be. The
 3 judge generally agreed to me, generally agreed you were
 4 going to get it to me right away.
 5 The judge ordered you should get it to me, and
 6 I want to note what the content is going to be before I
 7 turn it over to you, the documents over to you, pursuant
 8 to what you say you will agree to. Are the conditions
 9 that you're going to accept, the conditions that the
 10 judge expressed during the hearing on November 13.
 11 MR. TORPEY: Well, Marshall, of course I'm
 12 going to follow the judge's orders. That's why we had
 13 the hearing. This has already been decided, so I'm not
 14 going to waste any more time discussing it today.
 15 I want to see the documents. They were
 16 supposed to be produced at 10:00 a.m. It's now
 17 afternoon. I want to see the documents now. Either
 18 decide to give it to me or don't, but at this point I'm
 19 going to continue asking questions --
 20 MR. TURNER: I want it clear on the record --
 21 and don't give me this supposed to be produced at
 22 10:00 o'clock. I've had the documents here. I've told
 23 you I've had the documents here, and I've been asking
 24 you where the order is that the judge had ordered you to
 25 give to us well over a week ago.

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1 Now, it's here, and I want to make it a
 2 hundred percent clear on the record that you are
 3 agreeing that the documents that I give you will be
 4 subject to the order as expressed by the judge in the
 5 transcript of the hearing on November 13, 2007.
 6 MR. TORPEY: Marshall, I have said yes to that
 7 question several times today and in a letter a week ago.
 8 Now, please hand over documents and let's stop wasting
 9 my time and yours and the witness's. We wanted to see
 10 the documents. Can we see those now, please.
 11 MR. TURNER: As far as wasting of time, you're
 12 the one that has wasted virtually two weeks by now on
 13 this confidentiality order, not to mention the fact that
 14 almost every correction that I had asked you to make
 15 almost two months ago were the corrections that the
 16 judge ordered at the hearing on November 13. And we
 17 could have had this done months ago not just at
 18 10:00 o'clock this morning.
 19 MR. TORPEY: Are you giving me the documents,
 20 Marshall, or not because I want to move on with this
 21 deposition? I'm not going to discuss it further with
 22 you.
 23 MR. TURNER: Mr. Yamaguchi has his
 24 certificates that you had requested be produced.
 25 There's a copy for you, and I'm giving Mr. Yamaguchi a

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1 copy.
 2 MR. TORPEY: Are you producing any other
 3 documents, Marshall? I want to see every document
 4 you're producing in response to my notice at this point.
 5 MR. TURNER: We are producing the training
 6 records that Mr. Yamaguchi had discussed with the legal
 7 department of ANA and requested that the last column and
 8 the third from the last column be blacked out, redacted.
 9 There's a copy of Mr. Yamaguchi's training record for
 10 him and for you.
 11 MR. TORPEY: Is that it?
 12 MR. TURNER: Mr. Yamaguchi with regard to the
 13 accident investigation file had his statements to the
 14 NTSB and United Airlines, statements to the NTSB all of
 15 which have been produced and in everyone's possession
 16 for years.
 17 And as well the Jeppesen chart for the
 18 San Francisco International that was in effect on the
 19 day of the accident. And this is not Mr. Yamaguchi's
 20 document, but he hasn't had time to look for this since
 21 he didn't see your most recent document request until
 22 yesterday.
 23 And this is a section that he got from the
 24 legal department at ANA of the operations manual of ANA
 25 that covers the portion of the flight on the day of the

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1 accident, which is in effect now, many of which pages
2 were in effect on October 7, 2003, but some of them have
3 been altered and revised.

4 What I'm handing you now is a current copy.

5 MR. TORPEY: Well, I don't have it. Why don't
6 you hand it to me.

7 MR. TURNER: One second. Just looking to see
8 if I have an extra copy for you. Maybe we can have the
9 court reporter make a copy. I think I just have one
10 copy. So let me identify it as operations manual
11 section 2.3 through 2.3 - 2-3-3, and supplement
12 pages 751 through 756-7. I don't seem to have an extra
13 copy, but we'll get a copy from the court reporter.

14 MR. TORPEY: Okay. Is that everything you're
15 producing?

16 MR. TURNER: Yes.

17 MR. TORPEY: Why don't we mark this as one
18 exhibit. This could be Exhibit 2.

19 (Whereupon, Exhibit 2 was marked for
20 identification.)

21 MR. TORPEY: Just, for the record, I have
22 marked as Exhibit 2 all of the documents that Mr. Turner
23 has just turned over in response to our deposition
24 notice.

25 So I will at some point, Mr. Yamaguchi, ask

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1 you some questions about those, but I want the record to
2 be clear that that's the totality of what I was given.
3 And I understand that's the totality of all that I'll be
4 given.

5 MR. TURNER: And one second. I want it
6 absolutely clear that you are agreeing that every page
7 that I've just handed to you will be marked confidential
8 and subject to the confidentiality agreement when we
9 agree to it, when you provide it to me as ordered by the
10 judge and as the judge orders.

11 MR. TORPEY: Didn't I just say that, Marshall.
12 Once again, I'll say, yes, absolutely. I agree, as I
13 did previously, to make these retroactively subject to
14 the protective order.

15 Q. Now, apologize, Mr. Yamaguchi, for the delay.
16 I'd like to get back to the VHF radio that we were
17 talking about, and I want to try to go through this
18 quickly because we still have a lot to cover.

19 The second of the three VHF radios you
20 indicated would be used for communications with ANA,
21 what kinds of things would you be communicating with ANA
22 about when the aircraft is on the ground, for example,
23 at San Francisco International?

24 A. For example, if there is a weight and balance
25 adjustment or if there are specific new alerts or

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1 whatever necessary information that the company wants to
2 send us.

3 Q. Would it also be things like maintenance and
4 mechanical issues?

5 A. It would be rare for that type of information
6 to be communicated to us when we are on land, but
7 sometimes the aircraft mechanical issue may be
8 communicated by us to the company.

9 Q. So you agree there is a need for having a
10 dedicated VHF radio with its frequency tuned to ANA
11 while your aircraft is on the ground; correct?

12 A. Not dedicated. For example, we call it left,
13 right, and center radios. As a custom, we use the left
14 one for communication with ATC, the right one for
15 communication with the company, and the center one for
16 data communication, but we can use them for different
17 communications.

18 Q. Okay. To the best of your knowledge,
19 Mr. Yamaguchi, as the pilot in command of the aircraft
20 on October 7, 2003, at the time of the impact with the
21 United aircraft, were your radios, the VHF radios, the
22 left tuned to a frequency so you could talk to air
23 traffic control, the right tuned to a frequency so you
24 were talking or could talk to ANA, and the center tuned
25 to a frequency to allow you to receive data?

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1 A. I did not see those three radios just before
2 and after the impact. It is certain that the left was
3 tuned to communicate with ATC, but I do not have an
4 accurate recollection about the other two.

5 Q. Well, Mr. Yamaguchi, as of the time of the
6 impact, if the normal routine was being followed by
7 yourself and your crew members, you agree with me that
8 the right-hand radio would be tuned to a frequency
9 allowing you to talk to ANA and the center would be
10 tuned to a frequency to allow you to receive data.

11 Is that a correct statement, sir?

12 A. Ordinarily that is so, but I do not have a
13 recollection as to whether they were actually so at that
14 time.

15 Q. Well, you have no reason to believe that they
16 were not -- let me rephrase it.

17 Although you don't have a specific
18 recollection today, would it be fair to say that you
19 have no information whatsoever to lead you to believe
20 that at the time of the impact the VHF radios were not
21 set as you would routinely set them on the ground?

22 THE INTERPRETER: The interpreter will repeat
23 the question in Japanese.

24 THE WITNESS: There was no necessity to change
25 them, but I cannot confirm that the right was set for

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15 (Pages 54 to 57)

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1 the company and the center was set to data.
 2 MR. TORPEY: Q. Okay. And if you and your
 3 crew followed ANA's normal custom and practice, at the
 4 time of the impact, the center would be set to receive
 5 data, the right would be set to talk to ANA, and the
 6 left was set to talk to air traffic control, correct?
 7 A. I am repeating myself, but it is certain that
 8 the left was used for communication with ATC. But I did
 9 not see the right and the center, so I do not know
 10 clearly.
 11 Q. With all due respect, Mr. Yamaguchi, that was
 12 not the question. So I want to have the question read
 13 back. Please answer my question, sir.
 14 MR. TURNER: With all due respect, your
 15 question has been asked half a dozen times already --
 16 MR. TORPEY: That's not an objection under the
 17 federal rules.
 18 MR. TURNER: And you start asking the same
 19 question ten times, I'm going to speak up.
 20 MR. TORPEY: If you want to move for a
 21 protective order and terminate the deposition. If you
 22 want to get the judge on the line, you can do that.
 23 What you can't do and I won't stand for is for you to
 24 give coaching objections. That's what I won't do. You
 25 can laugh at me, Marshall.

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1 this accident? Was it you or the flying pilot?
 2 A. It was me.
 3 Q. And as the pilot that was communicating, if
 4 there was going to be a frequency change, would you be
 5 the one that would make that change?
 6 A. Yes.
 7 Q. And as the pilot in command of that flight on
 8 October 7, if the first officer or flying pilot wanted
 9 to make a change in the frequency of any of the three
 10 VHF radios, would they let you know that?
 11 A. Yes, I think so.
 12 Q. And as you sit here today, do you recall your
 13 first officer ever asking you if he could change the
 14 frequency on the center or the right radio so that they
 15 would be tuned to frequencies other than what they would
 16 routinely be tuned to?
 17 A. No, he did not.
 18 Q. All right. Let me ask you in terms of routing
 19 the day of -- let me back up.
 20 With regard to routing from SFO to Japan
 21 airspace, are there different altitudes, for example,
 22 that can be assigned?
 23 A. Do you mean at the time of departure?
 24 Q. Let me rephrase it for you, Mr. Yamaguchi.
 25 When you, as the PIC, and the communicating

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1 MR. TURNER: It is a joke, the way you're
 2 behaving. That is a joke.
 3 (Record read by the reporter.)
 4 THE WITNESS: As a generality that is the
 5 case, but whether they were actually so or not, I can't
 6 say because I did not check before and after the impact.
 7 MR. TORPEY: Q. Mr. Yamaguchi, I'm not asking
 8 you, sir, whether you can actually confirm. I'm
 9 strictly asking you, as the question indicates, about
 10 custom and routine. Do you understand that, sir?
 11 A. The general way we use them were -- that were
 12 as you say.
 13 Q. Okay. And do you have -- strike that.
 14 Is there any reason on October 7, 2003, that
 15 you're aware of that that general custom or routine with
 16 regard to the settings of the VHF radios was not
 17 followed?
 18 A. I do not recall clearly although I don't think
 19 there was any.
 20 Q. If the flying -- strike that.
 21 The observer pilot would not for any reason
 22 change the frequency on one of these radios any time up
 23 to the time of impact; correct?
 24 A. Not ordinarily.
 25 Q. Who was doing the communicating on the day of

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1 pilot talk to air traffic control, did you request any
 2 assignment in terms of, you know, what routing you would
 3 be assigned for your trip between SFO and Narita, the
 4 day of this accident?
 5 A. Yes.
 6 Q. And do you have a preferred route that, if
 7 it's available, you like to get?
 8 A. I do not recall clearly if we received
 9 clearance with regards to the routing that we requested,
 10 but usually there is no change in the routing.
 11 Q. When I say routing, I guess, can you ask to be
 12 assigned to particular altitudes, for example?
 13 A. Altitude is requested by the company to the
 14 ATC authority in advance.
 15 Q. Do you remember the local time of day that
 16 this collision occurred?
 17 A. Not accurately.
 18 Q. Was it sometime around noon local Pacific
 19 time?
 20 A. I think it was in the morning.
 21 Q. Okay. I know you're not sure, but what's your
 22 best estimate of the time locally, Pacific time, that
 23 the collision occurred?
 24 A. The departure time was around 11:00 a.m., so
 25 it was around 20 minutes later.

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1 Q. Do you recall if you left the gate on time?
 2 A. I do not recall.
 3 Q. Okay. There are other airlines besides ANA
 4 that fly out of that terminal, that international
 5 terminal that your aircraft departed from; correct?
 6 A. Yes.
 7 Q. And were you aware on October 7, 2003, that
 8 there were other airlines flying scheduled flights that
 9 morning at around the same time of your flight to Japan?
 10 A. No, I was not aware.
 11 Q. So you felt that your flight was the only
 12 flight of any airline going to Japan at around
 13 11:00 o'clock in the morning that day?
 14 A. That is not what I felt.
 15 Q. What was your understanding with regard to
 16 other aircrafts, say, between 11:00 and 11:15 when you
 17 were scheduled to depart from your gate? What was your
 18 understanding on October 7, 2003, about other aircrafts
 19 going to Japan departing at about the same time?
 20 A. I don't know the specifics, but that is around
 21 the time frame during which flights to Japan depart.
 22 Q. In the area where you departed from, the gates
 23 and then the ramp area that this collision ultimately
 24 occurred, at the time of the accident, was it a very
 25 busy time of the day at that airport in that area, in

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1 other words, a lot of arrivals and departures at that
 2 time?
 3 MR. TURNER: Objection as to form and
 4 foundation.
 5 THE WITNESS: Are you asking about the time or
 6 the location?
 7 MR. TORPEY: Q. At the location in the ramp
 8 area including the gates and the adjacent ramp area, are
 9 there a lot of flights that depart around the time your
 10 flight was departing so that it's very congested, if you
 11 will, with arrivals and departures in that area at that
 12 time?
 13 MR. TURNER: Objection as to form and
 14 foundation.
 15 THE WITNESS: I do not recall clearly.
 16 MR. TORPEY: Q. All right. Are some altitude
 17 assignments for airspace between San Francisco and Japan
 18 airspace better than others for purposes of fuel
 19 efficiency, for example?
 20 A. Yes.
 21 Q. And when you're asking for clearance to taxi
 22 and take off, do you request to be assigned to a
 23 particular altitude that you believe would be the most
 24 fuel efficient or for whatever reason you believe to be
 25 the most optimal altitude?

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1 A. We receive clearance before departure, before
 2 we start the engine.
 3 Q. Now, let's say, there are two or more
 4 aircrafts that are scheduled to fly from San Francisco
 5 to Japan airspace and they're both being pushed back
 6 from their respective gates at around the same time.
 7 How is it determined who is going to get
 8 the -- what I'll call the more optimal altitude
 9 assignments, if there's more than one aircraft competing
 10 for the designated altitude?
 11 A. I would not know that.
 12 Q. Well, only one aircraft would be assigned to
 13 one particular altitude at a time; correct?
 14 A. There could be many cases, so I would not know
 15 about that.
 16 Q. Well, I guess, Mr. Yamaguchi, if you knew
 17 that, for example, United's aircraft or some other
 18 aircraft was departing at about the same time as your
 19 aircraft and was going to fly to Japan and only one of
 20 you could get what would be considered the most fuel
 21 efficient or optimal route, would you feel that the
 22 person who made the first request to ATC would be the
 23 aircraft more likely to get that assignment? In other
 24 words, first come/first serve? Is that your
 25 understanding of how the process works?

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1 A. No, I don't think that is -- would be the only
 2 reason.
 3 Q. Well, that could be one of the reasons, the
 4 first to ask for the optimal airspace may be the one
 5 that gets it; correct?
 6 A. That may be one of the reasons, but the routes
 7 from the West Coast to Asia are not limited to just
 8 San Francisco.
 9 THE INTERPRETER: The interpreter will
 10 restate.
 11 THE WITNESS: That may be one of the reasons,
 12 but the routes from the West Coast to Asia is limited.
 13 San Francisco is not the only airport. There is
 14 Los Angeles airport as well as many other airports along
 15 the West Coast from which the aircrafts depart.
 16 So even if a certain aircraft made the request
 17 first in San Francisco, it does not necessarily mean
 18 that that aircraft would be assigned that optimal route.
 19 MR. TORPEY: Q. ANA flies between Los Angeles
 20 and Japan; correct?
 21 A. Yes.
 22 Q. And I take it you also fly that route with the
 23 777?
 24 A. Yes.
 25 MR. TURNER: Counsel, it's past 1:00 o'clock.

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17 (Pages 62 to 65)

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1 It's way past time for lunch already... Let's break now.
 2 MR. TORPEY: We just took a break 45 minutes
 3 ago, and I'm happy to stop for lunch, but I'd like to --
 4 MR. TURNER: If you're in the middle of a
 5 question, then finish the question. Go right ahead.
 6 MR. TORPEY: Q. With regard to flights
 7 between Japan and LAX, does ANA fly those on a daily
 8 basis?
 9 A. Yes.
 10 MR. TURNER: You finished that question?
 11 MR. TORPEY: Yeah. I guess we can take a
 12 break. You know, we've been going for about a little
 13 less than two and a half hours of testimony, so how long
 14 do you want to break for?
 15 MR. TURNER: An hour. We've been going for
 16 almost three hours of testimony.
 17 MR. TORPEY: No. We haven't.
 18 MR. TURNER: We had one break of about
 19 10 minutes, and it's well past break time, certainly for
 20 the witness, I expect for the translator and for the
 21 court reporter.
 22 MR. TORPEY: Testimony does not include a
 23 lawyer discussion, Marshall, so as far as I'm concerned,
 24 we've been here for a little less than two and a half
 25 hours of testimony. If you believe otherwise, we'll

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1 just have to see how far this goes, but we'll break.
 2 You request an hour break. We'll break for an hour.
 3 THE VIDEOGRAPHER: Should we go off the
 4 record?
 5 MR. TORPEY: Yeah.
 6 THE VIDEOGRAPHER: Going off the record. The
 7 time on the monitor is 1:01 p.m.
 8 (Noon recess taken.)
 9 THE VIDEOGRAPHER: Coming back on the record.
 10 The time on the monitor is 1:59. Please begin.
 11 MR. TORPEY: Q. Mr. Yamaguchi, are you
 12 familiar with the term conflict resolution?
 13 A. No. I am not.
 14 Q. As a pilot for ANA, at any time were you
 15 trained by ANA or anyone else with regard to what to do
 16 when you or a member of your flight crew perceives that
 17 it might potentially collide with another aircraft?
 18 A. No.
 19 Q. So even to this day you have never received
 20 any training from any source or anyone with regard to
 21 what actions you should take in order to determine
 22 whether or not you're going to collide with another
 23 aircraft and, if so, what to do to resolve that
 24 potential collision hazard? Fair statement?
 25 MR. TURNER: I'm sorry. Can I have the

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1 question read back please, in English.
 2 (Record read by the reporter.)
 3 MR. TURNER: Objection as to form and
 4 foundation.
 5 THE WITNESS: I do not understand what the
 6 specific situation is, but I have not been trained for
 7 the collision that took place or anything simulating it.
 8 MR. TORPEY: Q. Mr. Yamaguchi, so there's no
 9 misunderstanding here, even though you were pilot in
 10 command of the ANA 777 aircraft, at no time up to
 11 October 7, 2003, did you receive any training or
 12 instruction of any kind from any source with regard to
 13 what actions to take if you believe you are going to
 14 collide with other aircraft on the ground?
 15 A. Although I have not received the training,
 16 there are warnings given in a document with regards to
 17 similar incidents.
 18 Q. What is the document you're referring to?
 19 What is it called?
 20 A. There is no special name. I do not recall the
 21 name.
 22 Q. Is that a document that ANA has?
 23 A. I think it was included in the -- in one of
 24 the documents related to a work log that I saw.
 25 Q. Let me ask you this way, Mr. Yamaguchi. In

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1 all your years of flying you have never heard anyone use
 2 the term conflict or conflict resolution; correct?
 3 A. That's right.
 4 Q. I want you to assume for purposes of my
 5 questions, Mr. Yamaguchi, that if your aircraft were
 6 taxiing and there's another aircraft a distance away and
 7 there's a potential that those two aircrafts could
 8 collide, I want you to assume that that potential
 9 collision hazard is what I'm calling a conflict or
 10 potential conflict.
 11 Do you understand me?
 12 A. Yes.
 13 Q. For example, on the day of this accident,
 14 October 7, 2003, was there any written material that
 15 you're aware of that would have assisted you in
 16 determining, as you were taxiing towards the United
 17 aircraft prior to impact, to determine what you should
 18 do to decide whether or not there was a conflict and, if
 19 there was a conflict, what you should do to resolve it?
 20 THE VIDEOGRAPHER: Excuse me one moment.
 21 Madam Translator, the microphone is right underneath the
 22 pendant and it's hitting it, so if you could move it to
 23 the side.
 24 THE INTERPRETER: Should I lower it? My voice
 25 is large enough.

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18 (Pages 66 to 69)

Eishin Yamaguchi

1 THE WITNESS: There's one question; right?
 2 MR. TORPEY: Q. Yes.
 3 MR. TURNER: I'm sorry. Can I have that
 4 question read back then.
 5 (Record read by the reporter.)
 6 MR. TURNER: Objection as to form.
 7 THE WITNESS: I don't understand the question
 8 very well.
 9 MR. TORPEY: Q. Do you think that ANA should
 10 have trained you and the other pilots in the cockpit of
 11 that aircraft that day on what to do if there is a
 12 potential collision hazard, such as the one you
 13 encountered the day of this accident?
 14 MR. TURNER: Objection as to form.
 15 THE WITNESS: In order to obtain my license, I
 16 have received Boeing's training, and there's no training
 17 limited to taxiing even at Boeing, so I have not
 18 received such a training.
 19 MR. TORPEY: Q. So you've never received any
 20 conflict resolution training by Boeing or ANA or anyone
 21 else even to this date; correct?
 22 A. I have not received training.
 23 Q. Do you think that it would have been a good
 24 idea for you and your other crew members to have
 25 received conflict resolution training?

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1 A. No, I do not.
 2 Q. Why do you think it was not necessary for you
 3 or the other crew members on or before October 7, 2003,
 4 to receive conflict resolution training?
 5 A. That accident entailed a special situation,
 6 and it is not possible to receive trainings for the
 7 various different special situations.
 8 Q. Well, I'm not asking you, Mr. Yamaguchi, if
 9 you should get training for every conceivable accident
 10 that could ever possibly happen.
 11 I'm only asking you whether you believe it
 12 would have been useful or advisable for ANA to have
 13 trained its pilots in conflict resolutions on or before
 14 the day of this accident? Conflict resolution
 15 generally.
 16 A. I do not believe that such a special training
 17 is necessary.
 18 Q. Do you know if other airlines provide conflict
 19 resolution training to its pilots?
 20 A. I do not.
 21 Q. Okay. Now, you mentioned earlier in the
 22 testimony there was some kind of a warning relating to
 23 collision hazards or potential collision hazards, and I
 24 asked you what document that was called. And I believe
 25 you said it didn't have a particular name.

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1 My question to you is, sir, if you wanted to
 2 get a copy of that, where would you go? Who would have
 3 it? And in what location would it be held?
 4 A. The name is route manual.
 5 Q. Is the operations manual that was marked
 6 Exhibit 2 -- you're welcome to look at this -- and it's
 7 dated July 1 of 2007, at least this generation is -- is
 8 the operations manual part of the training or training
 9 materials provided to ANA pilots?
 10 MR. TURNER: Just for the record to be clear,
 11 Exhibit 2 contains more than just the operations manual
 12 section. I think it's only the first 10 or 12 pages or
 13 so.
 14 MR. TORPEY: Q. I'm only referencing the
 15 portion of the exhibit that's the operations manual.
 16 A. We have a Japanese version, so we do not look
 17 at this. This is the English version for foreigners.
 18 Q. But the operations manual, even in Japanese,
 19 is that part of the required materials to be reviewed as
 20 part of training for ANA pilots?
 21 A. Yes.
 22 Q. Now, if you look at Exhibit 2, the operations
 23 manual, this is only a part of the manual. It's not the
 24 complete manual; correct?
 25 A. Yes, that's right.

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1 Q. On the second page of Exhibit 2, it's talking
 2 about taxiing at item 2. Do you see that?
 3 A. Yes.
 4 Q. And it says, and I'll read it, I quote, the
 5 captain shall perform taxi in accordance with the
 6 following.
 7 Do you see that?
 8 A. I can see it, but since I have not compared
 9 this to what we use, I cannot really tell whether they
 10 are identical.
 11 Q. Well, assume for purposes of my questions that
 12 they are identical. On the day of the accident,
 13 October 7, 2003, you were the captain; correct?
 14 A. Yes.
 15 Q. And the word shall, you understand that this
 16 is mandatory, not discretionary?
 17 A. Yes.
 18 Q. And on the day of this accident, the flying
 19 pilot that was taxiing was not yourself but actually the
 20 copilot; correct?
 21 A. Yes.
 22 Q. Do you know if on the day of this accident,
 23 October 7 of 2003, Mr. Yamaguchi, whether that was the
 24 rule that was in effect at that time as well as July 1
 25 of 2007?

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19 (Pages 70 to 73)

Eishin Yamaguchi

1 A. The manual is revised frequently, so I do not
2 know if the content was the same.

3 Q. If we assume, Mr. Yamaguchi, that it was the
4 same, then would you agree with me that you and not the
5 first officer should have been taxiing on the day of
6 this accident?

7 A. No, I do not agree.

8 Q. And why not?

9 A. I had the authority to allow the copilot to
10 operate the aircraft. There was no reason that I had to
11 do it myself.

12 Q. Well, if, in fact, on October 7, 2003, the
13 operations manual read as it does in Exhibit 2 that the
14 captain shall perform taxi, then you did not have the
15 authority to allow the first officer to perform the
16 taxi, correct?

17 A. No, that is not so.

18 Q. Why is it not so despite what it says there?

19 A. I believe that the interpretation is
20 different.

21 Q. In what respect?

22 A. The word captain on this document is not
23 limited to the captain, per se. It includes the concept
24 that the responsibility of the captain allows his giving
25 permission to the copilot to operate the aircraft.

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1 Q. So even if on the day of this accident the
2 operations manual -- and let me back up a step.
3 The operations manual is the instructions
4 pursuant to which you have to operate the aircraft;
5 correct?

6 A. Yes.

7 Q. And even if on October 7, 2003, the operations
8 manual said that the captain shall perform taxi, you
9 believe and you interpret that statement to mean that
10 you had the right to delegate that to the first officer;
11 correct?

12 A. That's right.

13 Q. Have you ever talked to anyone about
14 that -- strike that.

15 Have you ever talked to anyone at ANA about
16 whether your understanding of that is correct or not?

17 A. Even without talking to anyone, it is obvious
18 that at ANA the -- it is possible for the copilot to be
19 PF from departure to arrival.

20 Q. But you never asked anyone whether you had the
21 authority to delegate the taxi to the first officer.
22 You never asked anyone that; correct?

23 A. The manual says that it is possible to have
24 the copilot operate the aircraft.

25 Q. Can you show me where in the manual it says

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1 that?

2 A. I cannot because I do not have a manual at
3 hand.

4 Q. So it would be in a portion of the operations
5 manual that is not included in the portion marked
6 Exhibit 2, correct?

7 A. Yes.

8 Q. Now, getting back to Exhibit 2, that portion
9 of the operations manual, after it says the captain
10 shall perform taxi in accordance with the following,
11 under item 2 it says, be observant of all obstacles
12 around him and taxiing speed is such that he may bring
13 his airplane to an immediate and complete stop.

14 Do you see that?

15 A. Yes.

16 Q. Now, is the reason as you understand it why
17 that is in the operations manual -- strike that. Let me
18 rephrase it.

19 Is it your understanding that the reason the
20 captain has to be observant during taxi, observant of
21 all obstacles around him, is to avoid, among other
22 things, colliding with another aircraft?

23 A. Yes.

24 Q. And if you look further at number 5, it also
25 requires that -- and I'll read it -- ask for a

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1 signalman's assistance in the event that there's any
2 obstacle in the vicinity of the ramp area.

3 Do you see that?

4 A. Yes.

5 Q. And what do you understand that that requires
6 the captain to do?

7 A. I think it is as is written.

8 Q. So as written, as you understand it, if during
9 the taxi you, as captain, perceive a potential conflict
10 or collision hazard with another aircraft, then you're
11 supposed to ask a signal person or signalman for
12 assistance. Is that a correct statement?

13 A. This is talking about a really severe
14 situation wherein there really might be a collision.

15 Q. Mr. Yamaguchi, that was not the question. The
16 question is as you understand what is written, if you
17 perceive -- let me back up.

18 Looking at your operations manual under
19 item 2, taxiing at subsection 2, which requires the
20 captain to be observant of obstacles around him, if
21 during taxi there's another aircraft in your vicinity,
22 according to this manual, you're required -- you shall
23 ask for a signalman's assistance?

24 MR. TURNER: Objection as to form and
25 foundation.

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20 (Pages 74 to 77)

Eishin Yamaguchi

1 THE WITNESS: It depends on the situation.
 2 Naturally, if I judge that a signalman is necessary, I
 3 would request a signalman.
 4 MR. TORPEY: Q. What do you understand in
 5 this ops manual the word signalman as used in subsection
 6 5 means?
 7 A. In Japanese the term is chijo, c-h-i-j-o,
 8 h-a-i-c-h-i, i-n, but this is a person who will help
 9 with the wing tip or the rear of the aircraft that we
 10 cannot see.
 11 Q. At San Francisco airport on October 7, 2003,
 12 would the United ramp controller be someone that you
 13 would consider to fall within the definition of a
 14 signalman?
 15 A. No.
 16 Q. So if on October 7, 2003, you perceived that
 17 there may be a collision hazard with the United air,
 18 according to the policy in ANA's operations manual, what
 19 did you understand you had to do at that point, if
 20 anything?
 21 A. At that point we were continuing with the
 22 taxiing based on the judgment that there was no
 23 potential for a collision.
 24 Q. My question to you, sir, is assume that at
 25 some point prior to the impact, if you had perceived

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1 that there was a collision hazard with the United
 2 aircraft, under the terms of the ANA operations manual,
 3 what is it that you as pilot in command or others under
 4 your command were required to do at that point?
 5 A. Subsection 5 talks about a situation when the
 6 captain is not able to make a personal judgment.
 7 Q. Well, the question to you is in a situation
 8 where the captain or the crew perceived -- did perceive
 9 a potential conflict or collision hazard, what is it
 10 that the ANA operations manual required you to do?
 11 A. Therefore it would be a situation that is
 12 different from what is written here. We judged that
 13 taxiing was possible, so it was not necessary to call a
 14 signalman.
 15 Q. If you had determined that taxiing was not
 16 possible and that you needed to call a signalman on
 17 October 7, 2003, who would you have called?
 18 A. Am I obligated to answer a hypothetical
 19 question like that?
 20 Q. Yeah.
 21 MR. TURNER: It happens to be a very good
 22 question. I would object to it as a hypothetical
 23 without sufficient foundation or facts and incomplete
 24 hypothetical. If the witness understands it, I'd permit
 25 him to answer it assuming that he has sufficient facts

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1 to accurately answer it.
 2 THE WITNESS: Since this is a hypothetical
 3 issue, I cannot give an accurate answer.
 4 MR. TORPEY: Q. Mr. Yamaguchi, as the pilot
 5 in command of an aircraft that had over 150 people whose
 6 lives were in your hands on October 7, 2003, are you
 7 telling me and this jury that you have no idea what you
 8 should do when faced with the possibility of colliding
 9 with the United aircraft on that day?
 10 Is that what you're telling us?
 11 MR. TURNER: Objection as to form and
 12 foundation.
 13 MR. TORPEY: Now, before he answers, why don't
 14 you change the tape.
 15 THE VIDEOGRAPHER: This concludes Videotape 2
 16 in the deposition of Eishin Yamaguchi. The time on the
 17 monitor is 2:48 p.m.
 18 (Discussion off the record.)
 19 THE VIDEOGRAPHER: Here begins Videotape 3 in
 20 the deposition of Eishin Yamaguchi. Coming back on the
 21 record. The time on the monitor is 2:51 p.m.
 22 MR. TORPEY: I'd ask that the court reporter
 23 please read the question back in English and the
 24 interpreter please read the question in Japanese.
 25 (Record read by the reporter.)

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1 MR. TURNER: Objection as to form and
 2 foundation and incomplete hypothetical.
 3 THE WITNESS: The answer is no.
 4 MR. TORPEY: Would you read back the question
 5 and answer.
 6 (Record read by the reporter.)
 7 MR. TORPEY: Q. Now, tell us, Mr. Yamaguchi,
 8 what you as the pilot in command believed you needed to
 9 do on October 7, 2003 when faced with the potential
 10 conflict or potential collision with the United
 11 aircraft. What was it that you believe you were
 12 supposed to do at that point?
 13 MR. TURNER: Objection as to form and
 14 foundation and incomplete hypothetical.
 15 THE WITNESS: I do not recall how I thought at
 16 that time exactly, but I judged that taxiing was
 17 possible, therefore, I continued taxiing.
 18 MR. TORPEY: Q. Was it your decision or the
 19 first officer's decision to decide to continue taxiing
 20 as opposed to stop?
 21 A. The two of us discussed, and the ultimate
 22 decision was mine.
 23 Q. Did either the observer pilot or your first
 24 officer ever express to you concern about whether you
 25 should continue to taxi?

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21 (Pages 78 to 81)